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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA, ) No. CR 07-0790 CW  
14 Plaintiff, ) STIPULATION RE EXCLUDABLE TIME  
15 v. ) UNDER 18 U.S.C. § 3161 AND  
ENRIQUE GARCIA-GRACIANO, ) [PROPOSED] ORDER  
17 Defendant. )  
18

19 The United States, by and through its counsel, Scott N. Schools, United States Attorney  
20 for the Northern District of California, and Chinhayi Coleman, Assistant United States Attorney,  
21 and defendant, by and through his counsel, Joyce Leavitt, Assistant Federal Public Defender,  
22 hereby agree as follows:

23 The parties request that, based on the facts provided herein and during the hearing before  
24 Magistrate Judge Wayne D. Brazil on December 19, 2007, time should be excluded under 18  
25 U.S.C. §§ 3161(h)(8)(A) and (b)(iv).

26 During the December 19, 2008 hearing, this matter was continued to January 16, 2008 at  
27 2:00 p.m. for a status hearing before Judge Claudia Wilken. As stated during the December 19,  
28 2007 hearing, counsel for the government provided discovery to defense counsel on December

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1 14, 2007. Further, the parties have discussed potential resolution of this case through a plea  
2 agreement and the government provided a draft plea agreement to defense counsel on December  
3 17, 2007. Defense counsel is conducting investigation and review of the discovery materials in  
4 order to effectively advise the defendant, including advice regarding any potential disposition.

5 For the foregoing reasons, the parties stipulate and agree that the ends of justice served by  
6 the continuance of this matter to the status hearing set for January 16, 2008 at 2:00 p.m. outweigh  
7 the best interests of the public and the defendant in a speedy trial because the failure to grant such  
8 a continuance would unreasonably deny counsel for the defendant the reasonable time necessary  
9 for effective preparation, taking into account the exercise of due diligence.

10 DATED: December 20, 2007 Respectfully submitted,

11 SCOTT N. SCHOOLS  
12 United States Attorney

13 \_\_\_\_\_ /s/ (by Andrew S. Huang)  
14 CHINHAYI J. COLEMAN  
15 Assistant United States Attorney

16  
17 DATED: December 20, 2007

18 \_\_\_\_\_ /s/  
19 JOYCE LEAVITT  
20 Counsel for Enrique Garcia-Graciano

21 ORDER

22 Based on the reasons provided in the stipulation of the parties above, the Court hereby  
23 FINDS that the ends of justice served by the continuance of this matter to the status hearing set  
24 for January 16, 2008 at 2:00 p.m. outweigh the best interests of the public and the defendant in a  
25 speedy trial because the failure to grant such a continuance would unreasonably deny counsel for  
26 the defendant the reasonable time necessary for effective preparation, taking into account the  
27 exercise of due diligence.

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Based on these findings, IT IS HEREBY ORDERED that time is excluded from December 20,2007 to and including January 16, 2008 under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

Dated: December \_\_\_, 2007

**WAYNE D. BRAZIL**  
United States Magistrate Judge

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